
TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #12-270

DIGEST

Adds [312 IAC 11-3.5](#), concerning the management of public freshwater lakes, to authorize extended license durations for qualified temporary structures and dredging activities under [IC 14-26-2-17](#), including qualified temporary structures that may be removed on a seasonal basis, dredging projects, and licenses contingent on federal or state funding. Effective July 1, 2013.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[312 IAC 11-3.5](#)

SECTION 1. [312 IAC 11-3.5](#) IS ADDED TO READ AS FOLLOWS:

Rule 3.5. Extended Duration for Qualified Licenses

[312 IAC 11-3.5-1](#) General principle for expiration of licenses issued under [IC 14-26-2](#) and [312 IAC 11](#) with exceptions to extend duration

Authority: [IC 14-10-2-4](#); [IC 14-26-2-17](#); [IC 14-26-2-23](#)

Affected: [IC 14-26-2](#)

Sec. 1. A license under [IC 14-26-2](#) and [312 IAC 11](#) expires two (2) years after issuance unless:

(1) otherwise provided in this rule; or

(2) issued under:

(A) LSA Document #11-376(E), posted at [20110629-IR-312110376ERA](#), before its expiration on July 1, 2012; or

(B) LSA Document #12-395(E), posted at [20120711-IR-312120395ERA](#), before its expiration on July 1, 2013.

(Natural Resources Commission; [312 IAC 11-3.5-1](#))

[312 IAC 11-3.5-2](#) Effectiveness of individual licenses for temporary structures; seasonal removal and replacement

Authority: [IC 14-10-2-4](#); [IC 14-26-2-17](#); [IC 14-26-2-23](#)

Affected: [IC 14-26-2](#)

Sec. 2. (a) Except as provided in section 5 of this rule, an individual license to construct a temporary structure expires unless the license holder completes the structure within two (2) years of the effective date of the license.

(b) Subsequent seasonal removal of a temporary structure completed timely under subsection (a) or section 5 of this rule does not terminate a license, if the temporary structure conforms to the terms of the license when the structure is replaced.

(c) Subsection (b) applies to any temporary structure for which the department issues an individual license under this article after December 31, 2005.

(d) A person who wishes to modify a condition of an individual license to place a temporary structure must complete another licensure process before the structure is placed.

(Natural Resources Commission; [312 IAC 11-3.5-2](#))

[312 IAC 11-3.5-3](#) Effectiveness of license to conduct dredging

Authority: [IC 14-10-2-4](#); [IC 14-26-2-17](#); [IC 14-26-2-23](#)

Affected: [IC 14-26-2](#)

Sec. 3. (a) Except as provided in subsection (b) and section 5 of this rule, a license to perform dredging expires two (2) years after issuance by the department.

(b) The deputy director for the bureau of water and resource regulation may extend the duration of a license for one (1) additional period, not to exceed two (2) years, upon receipt of a written request from the license holder that demonstrates one (1) or more of the following:

- (1)** Extraordinary climatic conditions have prevented completion of the anticipated project.
- (2)** An unreasonable hazard to navigation or otherwise to public safety is likely to result if an extension is not granted.
- (3)** Unreasonable detrimental effects upon fish, wildlife, or botanical resources are likely to result if an extension is not granted.
- (4)** The project cannot be completed within the original period of two (2) years as a result of causes that:
 - (A)** were outside the control of the license holder; and
 - (B)** could not have been avoided by the license holder's exercise of due care.

(Natural Resources Commission; [312 IAC 11-3.5-3](#))

[312 IAC 11-3.5-4](#) Effectiveness of license contingent upon funding from the federal government or the Lake and River Enhancement Fund

Authority: [IC 14-10-2-4](#); [IC 14-26-2-17](#); [IC 14-26-2-23](#)

Affected: [IC 6-6-11](#); [IC 14-26-2](#)

Sec. 4. Except as provided in section 5 of this rule, a license expires five (5) years from the date of issuance if the application was made expressly contingent upon the receipt of funding from either the:

- (1)** federal government; or
- (2)** Lake and River Enhancement Fund established by [IC 6-6-11](#).

(Natural Resources Commission; [312 IAC 11-3.5-4](#))

[312 IAC 11-3.5-5](#) Effectiveness of license extended by review

Authority: [IC 14-10-2-4](#); [IC 14-15-7-3](#); [IC 14-26-2-23](#)

Affected: [IC 4-21.5](#); [IC 14-26-2](#)

Sec. 5. If a person seeks review under [IC 4-21.5](#) and [312 IAC 3-1](#) of a license issued by the department under [IC 14-26-2](#) and this article, the term of the license is calculated from the date of final disposition of the review.

(Natural Resources Commission; [312 IAC 11-3.5-5](#))

SECTION 2. SECTION 1 of this document takes effect July 1, 2013.

[Notice of Public Hearing](#)

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